

4-5-23

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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EQUIBAL, INC.,

Plaintiff(s),

THIRD REVISED

**CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER**

v.

7:21-cv- 6254 (VB)

365 SUN LLC d/b/a NUTREE COSMETICS,
NUTREE PROFESSIONAL BRAZIL,
LANCE THOMPSON, NATALIA Y
LIKHACHEVA, BRUNO BORGES
GARCIA, and CHROMUS COMERCIAL
EIRELLI, Defendant(s). X

This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel and any unrepresented parties, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties [do not consent] to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case [is] to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by N/A. (Absent exceptional circumstances, 30 days from date of this Order.)
4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed by N/A. (Absent exceptional circumstances, 14 days from date of this Order.)
5. Fact Discovery
 - a. All fact discovery shall be completed by August 28, 2023. (Absent exceptional circumstances, a period not to exceed 120 days from date of this Order.)
 - b. Initial requests for production of documents have been served.

- c. Initial interrogatories have been served.
- d. Non-expert depositions shall be completed by August 28, 2023.
- e. Requests to admit shall be served by August 28, 2023.
- f. Any of the interim deadlines in paragraphs 5(b) through 5(e) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(a).

6. Expert Discovery

- a. All expert discovery, including expert depositions, shall be completed by January 15, 2024. (Absent exceptional circumstances, 45 days from date in paragraph 5(a); i.e., the completion of all fact discovery.)
- b. Plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by October 11, 2023.
- c. Defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by November 13, 2023.
- d. The interim deadlines in paragraphs 6(b) and 6(c) may be extended by the written consent of all parties without application to the Court, provided that all expert discovery is completed by the date set forth in paragraph 6(a).

7. Additional provisions required by Fed. R. Civ. P. 26(f) and agreed upon by the parties are attached hereto and made a part hereof.

8. ALL DISCOVERY SHALL BE COMPLETED BY February 1, 2024. (Absent exceptional circumstances, a period not to exceed 6 months from date of this Order.)

9. All motions and applications shall be governed by the Court's Individual Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed.

10. Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery, or, if a dispositive motion has been filed, within 30 days after a decision on the motion, the parties shall submit to the Court for its approval a Joint Pretrial Order prepared in accordance with the Court's Individual Practices. The parties shall also comply with the Court's Individual Practices with respect to the filing of other required pretrial documents.

11. The parties have conferred and their present best estimate of the length of the trial is 7 days.

12. This Civil Case Discovery Plan and Scheduling Order may not be modified or the dates herein extended without leave of the Court or the assigned Magistrate Judge acting under a specific order of reference (except as provided in paragraphs 5(f) and 6(d) above).

13. The Magistrate Judge assigned to this case is the Honorable ANDREW E. KRAUSE.

14. If, after the entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.

15. The next case management conference is scheduled for February 7, 2024 at 10:00 a.m. (The Court will set this date at the initial conference.)

Dated: April 5, 2023
White Plains, New York

16. By no later than September 1, 2023, counsel shall submit a joint letter regarding the status of their settlement discussions and indicating whether there is anything the Court can do to assist in that regard.

SO ORDERED:



HON. VINCENT L. BRICCETTI
United States District Judge